

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

KEITH HARDY, individually and on)	
behalf of all other employees and)	
former employees of Lewis Gale)	
Medical Center, LLC)	
similarly situated, et al.,)	
)	
Plaintiffs,)	Civil Action No. 7:18-cv-00218
v.)	
)	By: Elizabeth K. Dillon
LEWIS GALE MEDICAL)	United States District Judge
CENTER, LLC,)	
)	
Defendant.)	

ORDER

For the reasons set forth in the accompanying memorandum opinion, it is hereby
ORDERED as follows:

1. Plaintiffs' motions to amend (Dkt. Nos. 33 and 43) are GRANTED, and the
second and third amended complaints are to be filed as separately docketed pleadings by
Plaintiffs within five days of entry of this order;

2. Defendant's motion for judgment on the pleadings and/or motion to strike (Dkt.
No. 23) is GRANTED IN PART and DENIED IN PART. It is DENIED as to Plaintiffs'
FLSA claims for rounding and disciplinary policies, as to Plaintiffs' claims for failure to
compensate regarding the one day of training and regarding working paid time off and
double shifts to attend G4S training, and as to the motion to strike regarding
compensatory damages and willfulness. It is GRANTED as to all other FLSA claims for
failure to compensate, and those claims are DISMISSED; and

3. Defendant's motion to dismiss under Rule 12(b)(1) and 12(b)(6) (Dkt. No. 27) are

GRANTED IN PART, DENIED IN PART, and MOOT IN PART as follows:

a. The 12(b)(6) motion is construed as a motion for judgment on the pleadings and is DENIED as to the statute of limitations regarding Hendricks I and Sanders I and GRANTED as to the statute of limitations regarding Contreras for any discrete acts prior to April 11, 2017, and those claims are DISMISSED; and

b. The 12(b)(1) motion is GRANTED as to the Title VII claims of Hardy, Finks, Hendricks II, Sanders II, and Bethel, and those claims are DISMISSED and REMANDED to the EEOC. The Title VII claims of Sanders I, Contreras, and Hendricks I remain. By agreement of the Plaintiffs, Contreras is the only Plaintiff asserting national origin discrimination and retaliation claims. The motion is DENIED regarding the argument that the claims of Contreras, Sanders I, and Hendricks I exceed the scope of the EEOC charge; and the issue of failure to receive right to sue notices is MOOT.

The clerk is directed to provide a copy of this order and the accompanying memorandum opinion to all counsel of record.

Entered: March 19, 2019.

/s/ Elizabeth K. Dillon
Elizabeth K. Dillon
United States District Judge